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# Law School Report



Left to right, State Supreme Court Justice Kevin M. Dillon '76, presiding justice of the Appellate Division, Fourth Department Eugene F. Pigott '73; and U.S. Magistrate Judge H. Kenneth Schroeder '61.

## A FAMILIAR CASE

*Desmond moot court has something in common with the big leagues*

Great minds think alike: A few weeks after UB Law School's Desmond Moot Court Competition in October, the U.S. Supreme Court heard arguments in the same case that the student litigants had used as their problem – a Washington state case testing whether the state is within its rights to deny scholarship money to a student who wanted to study theology.

The Supreme Court may have had more pomp and circumstance, but the weeklong Desmond competition was no less heartfelt.

The team of Erik Goergen and Joe Ippolito, both second-year students at UB Law and both veterans of the Faskin international moot court competition last year, emerged victorious over runners-up Gordon Lyon and John Rudy to pick up the en-

graved plaque as the winning team. Ippolito and Goergen also took first and second honors for best oralist; the team of Katie Metzen and Faye Vitagliano took top honors for best brief.

"I participated because I wanted real courtroom experience and the chance to argue in front of actual judges," Goergen said. "You do not usually get this experience for a few years after you graduate."

He and his partner prepared by reading the case law on the issue "and just debating among ourselves possible questions, trying to anticipate what the questions from the judges would be." It

was a good thing they did: In the final round – heard by Hon. Eugene F. Pigott '73, presiding justice of the Appellate Division, Fourth Department; U.S. Magistrate Judge H. Kenneth Schroeder '61; and State Supreme Court Justice Kevin M. Dillon '76 – Goergen had hardly launched into his prepared argument before he was embroiled in 15 minutes of questioning from the judges.

"Over the course of the week, the questions tend to get harder," Goergen said. "It was an unbelievable experience. This program depends on good judges volunteering (including a battery of volunteer attorneys acting as judges). We were impressed with the judges and appreciated their efforts. They knew the case and asked great questions."

His partner, Ippolito, is also a veteran of last year's Faskin international moot court, and the experience hooked him. "Arguing in front of interna-



Giuseppe A. (Joe) Ippolito '05 and Erik A. Goergen '05.





Photos by James P. McCoy

Student litigants during final rounds in the Francis A. Letro Courtroom.

tional law experts in a Canadian federal courthouse was exciting, and I wanted to try it again," he said.

"The most exciting aspect of the Desmond for me was standing in front of three accomplished judges. For 15 minutes I could tune out the audience behind me, tune out everything else going on in school. I could look the judges in the eye have a conversation with these three legal experts."

The competition, he said, was an exercise in foresight as well as intellectual give-and-take. "When you are answering a question during an oral argument, you have to watch out for two things," Ippolito said. "You have to answer the question, but you also have to watch your response, because the response you give now could set you up for a damaging concession a couple of questions later."

"The judges probe all aspects of your argument for potential weaknesses. Each side of the case is designed to have flaws; no one side is a slam-dunk argument. So part of the challenge is, how do you minimize



Joe Ippolito '05 makes his point.

the weaknesses in your case, whether it be factual issues or whether you try to create some sort of policy argument. Ultimately you can't ignore the weaknesses."

In the final round, the winning team argued in favor of the student who was seeking a scholarship. In naming Goergen and Ippolito the victors, the judges were deciding on the quality of the arguments rather than making a ruling in the case. The Supreme Court has yet to issue a decision in the real-life case.

Judge Schroeder, a veteran of moot court judging at the Law School, said, "Obviously it was a very, very difficult topic. It was not a slam-dunk by any means on either side."

The competition was also a chance for the final-round judges to try out the new Francis M. Letro Courtroom in O'Brian Hall. "It is always interesting to see students in action," Schroeder said. "It is a good practical experience for students to get on their feet and face a bombardment of questions from judges. I thought the arguments were very good."